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Directive 11-5: Seven-Month Extension for Combined Reporting Filers

This Directive allows, for tax years beginning on or after January 1, 2010, a seven-month filing extension, available upon request, for any taxpayer corporation that must file a combined report to report its income derived from the activities of a combined group pursuant to the provisions of G.L. c. 63, § 32B.

Directive

Effective for tax years beginning on or after January 1, 2010, a taxpayer corporation that is a member of a combined group and that must report income derived from the activities of that group in a combined report ("combined reporting filer") may receive an extension of seven months, in lieu of the six-month extension allowed to corporate excise filers under G.L. c 62C, § 19, to file its combined report upon the combined group's request for this extension. The seven-month extension also applies to the non-income measure filing required from any member of the combined group if the member has the same tax year as the combined group. For the tax year beginning on or after January 1, 2010 but before January 1, 2011, a combined reporting filer that has previously requested a six-month extension will be granted an extension of an additional month, for a total of seven months. These taxpayers need take no further action to obtain the additional month extension for the 2010 tax year.

Discussion of Law

The Commissioner has the authority to grant, for good cause, a reasonable extension of time for filing a return. G.L. c. 62C, § 19. Combined reporting filers determine their income measure excise through the means of a combined report, generally relying upon information set forth in the federal income tax returns of the taxable and non-taxable members of the combined group. The membership of the combined group may be large, and may include non-U.S. corporations. Also, the combined group itself may be filing one or more federal consolidated returns, on behalf of a group of corporations that may differ from the membership of the combined group, as happens, for example, when the combined group includes one or more non-U.S. corporations. The Commissioner therefore finds that there is good cause to allow combined reporting filers extra time in which to file. The additional month beyond the six-month extension period specifically authorized under G.L. c. 62C, § 19 will provide these filers a reasonable time in which to gather the required information from the member corporations of the combined group. The seven-month extension authorized in this Directive will run from the last date for timely filing the required return as specified under G.L. c. 62C.

Combined reporting filers are taxpayer corporations; accordingly, these filers are responsible for reporting the non-income measure excise in addition to the income measure excise calculated via the combined report. There may also be situations in which a corporation included in a combined group is not subject to the income measure excise but is nonetheless subject to the non-income measure excise (e.g., Public Law 86-272 prevents the income measure from applying to the

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corporation). In either case, the seven-month extension applies to the non-income measure excise filing^[1] for the taxpayer corporation subject to the non-income measure excise, so long as the taxpayer reports its income using the same taxable year-end as the combined group. Any taxpayer corporation included in a combined report that is required to pay the non-income measure excise and that has a different taxable year than that of the combined group is not, however, entitled to the seven-month extension explained in this Directive as to its non-income measure filing. In this case, the taxpayer corporation must file its non-income measure excise with respect to its taxable year, and may request the six-month extension with respect to this separate filing.

Similarly, the seven-month extension applies to all income that is reported on the combined reporting filing, including any additional income of a taxpayer that is *not* included in the combined group's taxable income (e.g., allocable income), if the taxpayer reports this income using the same taxable year-end as the combined group. However, a taxpayer with a taxable year that is different from that of the combined group must separately report, without benefit of the seven-month extension explained in this Directive, any additional income that is not included in the combined group's taxable income, in addition to any non-income measure excise the taxpayer may owe for that year. In this case, the taxpayer may request the six-month extension with respect to this separate filing.

The seven-month extension explained in this Directive does not extend the due date for payment of tax due.

The seven-month extension for filing a combined report is available upon request by the combined group, provided 50% of the total amount of tax due in connection with the combined report from all of the taxpayer corporations included in the filing has been paid by the original due date. The total amount of tax due must include both the payment of the non-income measure and the income measure excise with respect to income that is accounted for on the combined report but not included in the combined group's taxable income. For the tax year beginning on or after January 1, 2010 but before January 1, 2011, a combined reporting filer that has previously requested a six-month extension will be granted an extension of seven months. These taxpayers need take no further action to obtain the additional month extension for the 2010 tax year. Failure to pay 50% of the total amount of tax due on or before the original due date of the return voids any extension of time and the combined report is subject to penalty as a late return.

Taxpayers needing an extension longer than the seven-month extension authorized here should contact the Customer Service Bureau for assistance.

Any combined reporting filer that does not apply for the seven-month extension provided for in this Directive would still be entitled to the automatic extension described in TIR 06-21, provided that all the conditions for that extension have been met. For combined reporting filers only, an automatic extension under the terms described in TIR 06-21 will be a seven-month automatic extension.

/s/Navjeet K. Bal
Navjeet K. Bal
Commissioner of Revenue

NKB:MTF:lab

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^[1] For taxable years beginning on or after January 1, 2011, the Department intends to revise the applicable forms to include the non-income measure filing on a schedule that is to be filed with the combined report.

